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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,635	01/05/2001	Robert E. Dvorak	BLFR 1001-1	4822

22470 7590 11/24/2004

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EXAMINER
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VAN DOREN, BETH

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/755,635

Applicant(s)

DVORAK ET AL.

Examiner

Beth Van Doren

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-92 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-92 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-24, drawn to product requirements using selling in-dates at selling locations and the associated times for an action to lead to the availability of a good at each location, classified in class 705, subclass 8.
  - II. Claims 25-46, drawn to using displays and presentation dates to project a displayed product's demand, classified in class 705, subclass 10.
  - III. Claims 47-62, drawn to reducing unfulfilled demand due to stock outs by comparing demand requirements with on hand stock, classified in class 705, subclass 8.
  - IV. Claims 63-86, drawn to projecting sell-out dates, classified in class 705, subclass 10.
  - V. Claims 87-92, drawn to increasing demand for a product with an excess quantity of stock (i.e. reducing overstock), classified in class 705, subclass 7.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III, IV, and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as determining product requirements including using an action lead time for the availability of the product (i.e. no displays and presentations (invention II), no avoidance of stock outs (invention III), no projecting of sell-out dates (invention IV), no increasing demand for excess stock (invention V)).

Art Unit: 3623

Invention II has separate utility such as using display and presentation data to project demand (i.e. no action lead time (invention I), no avoidance of stock outs (invention III), no projecting of sell-out dates (invention IV), no increasing demand for excess stock (invention V)). Invention III has separate utility such as comparing actual and on hand stock with demand to reduce unfulfilled demand (i.e. no selling in-dates (invention I), no displays and presentations (invention II), no projecting of sell-out dates (invention IV), no increasing demand for excess stock (invention V)). Invention IV has separate utility such as projecting sell-out dates (i.e. no selling in-dates (invention I), no displays and presentations (invention II), no stock out reduction (invention III), no increasing demand for excess stock (invention V)). Invention V has separate utility such as increasing demand for excess stock (i.e. no selling in-dates (invention I), no displays and presentations (invention II), no stock out reduction (invention III), no projecting of sell-out dates (invention IV)). See MPEP § 806.05(d).

3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II, III, IV, and V, the search required for Group II is not required for Groups I, III, IV, and V, the search required for Group III is not required for Groups I, II, IV, and V, the search required for Group IV is not required for Groups I, II, III, and V, and the search required for Group V is not required for Groups I, II, III, and IV, restriction for examination purposes as indicated is proper.

4. No telephone call was made to the Applicant because the current requirement for restriction is complex. See MPEP § 812.06.

Art Unit: 3623

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lwd  
bvd

November 20, 2004

*Susanna Diaz*  
SUSANNA M. DIAZ  
PRIMARY EXAMINER  
AU 3623